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EXAMINER

VORTMAN, ANATOLY

ART UNIT

PAPER NUMBER

2835

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,017

Applicant(s)

SCOGGIN ET AL.

Examiner

Anatoly Vortman

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-14 and 16-23 is/are rejected.
- 7) ☒ Claim(s) 11 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the parallel connection of the first and second primary fuse links as recited in claims 6, 12, and 16 must be shown. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7, 8, 18, 21, and 23, are rejected under 35 U.S.C. 102(b) as being anticipated by US/3,432,789 to Poehlman, Jr. (IDS document).

Regarding claims 7 and 8 Poehlman disclosed (Fig. 1-6) a fused disconnect switch comprising: at least one switch housing assembly comprising a switch housing (28) defining a

Art Unit: 2835

fuse receptacle and first and second terminal contact assemblies (36) extending therefrom, at least one of said first and second contact assemblies (36) comprising a terminal stud contact assembly; and a retractable fuse comprising a fuse housing (1), and first and second terminals (10) extending from said fuse housing (1), a primary fuse link (A) within said fuse housing (1) and connected to said first and second terminals (10), and an open circuit indication device (22) within said fuse housing (1) and coupled to said first and second terminals (10).

Regarding claims 18 and 21, Poehlman disclosed (Fig. 7-13) a fused disconnect switch comprising: at least one switch housing assembly comprising a switch housing (59) defining a fuse receptacle and first and second line side terminal stud contact assemblies (36) and first and second load side stud contact assemblies (36) extending therefrom, and a retractable fuse comprising a fuse housing (51), and a first and a second primary fuse links (A) extending between said first line contact assembly and said first load contact assembly and between said second line contact assembly and said second load contact assembly, respectively.

Regarding claim 23, Poehlman disclosed a monitoring circuit (23-27).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2835

5. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poehlman ('789).

Regarding claim 10, Poehlman disclosed all of the claim limitations as apply to claim 7, but did not disclose a particular rating of the device (130 amps to 250 amps).

It would have been obvious to a person of ordinary skill in communication and/or electrical protective device arts at the time the invention was made to select any suitable range of the device ratings, including the aforementioned range of 130amps to 250 amps, in order to provide proper coordination with upstream protective devices and to provide sufficient level of protection for a load, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 12, Poehlman disclosed all of the claim limitations as apply to claim 7, but did not disclose a second primary fuse link received in said fuse receptacle and connected in parallel to the first primary fuse link.

It would have been obvious to a person of ordinary skill in the fuse art at the time the invention was made to provide a second primary fuse link in said fuse receptacle of Poehlman in order to increase current rating of the device, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Art Unit: 2835

6. Claims 1-6, 9, 13, 14, 16, 17, 19, 20, and 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Poehlman in view of US/6,002,580 to LeVantine et al., (LeVantine).

Regarding claims 1-3, and 13, Poehlman disclosed (Fig. 1-6) a fused disconnect switch comprising: at least one switch housing assembly comprising a switch housing (28) defining a fuse receptacle and first and second terminal contact assemblies (36) extending therefrom, at least one of said first and second contact assemblies (36) comprising a terminal stud contact assembly; and a retractable fuse comprising a fuse housing (1), and first and second terminals (10) extending from said fuse housing (1), a primary fuse link (A) within said fuse housing (1) and connected to said first and second terminals (10), and an open circuit indication device (22) within said fuse housing (1) and coupled to said first and second terminals (10), but did not disclose the bullet-type contact assemblies.

Regarding claims 19 and 20, Poehlman disclosed all of the claims limitations as apply to claim 18, but did not disclose the bullet-type contact assemblies.

LeVantine disclosed (Fig. 6) a protective switch for communication systems having bullet-type contact assemblies (104, 106).

Since the inventions of Poehlman, and of LeVantine are from the same field of endeavor (protective devices for power distribution of communication systems), the purpose of the bullet type contact assemblies disclosed by LeVantine would be recognized in the invention of Poehlman.

It would have been obvious to a person of ordinary skill in communication and/or electrical protective device arts at the time the invention was made to modify said device of Poehlman by substituting one or both of the stud contact assemblies with the bullet-type contact

Art Unit: 2835

assembly as taught by LeVantine, in order to enhance installation features of the device of Poehlman and to accommodate the device for particular power distribution panel and/or for particular application.

Regarding claim 22, Poehlman in view of LeVantine disclosed all of the claim limitations as apply to claim 20, but did not disclose that said first and second load-side contact assemblies may be connected to a common bus.

The Official Notice is taken of the fact that connection of protective devices (fuses or circuit breakers) to a common bus is a common practice in power distribution field which had been widely used at the time the invention was made (e.g. in power distribution panels to provide power for multiple circuits). Therefore, it would have been obvious to a person of ordinary skill in the power distribution (fuse) art at the time the invention was made to connect said first and second load side contact assemblies in combination of Poehlman and LeVantine to a common bus in order to adapt said combination for particular application (e.g. in power distribution panel).

Alternatively it would have been obvious to a person of ordinary skill in the power distribution (fuse) art at the time the invention was made to connect said first and second load side contact assemblies in combination of Poehlman and LeVantine to a common bus, since the method of connection of the device is a mere way of using the device. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. connected to a common bus) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Art Unit: 2835

Regarding claims 4 and 14, Poehlman disclosed all of the claims limitations as apply to claims 1 and 13, respectively, but did not disclose a particular rating of the device (130 amps to 250 amps).

It would have been obvious to a person of ordinary skill in communication and/or electrical protective device arts at the time the invention was made to select any suitable range of the device ratings, including the aforementioned range of 130amps to 250 amps, in order to provide proper coordination with upstream protective devices and to provide sufficient level of protection for a load, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 5 and 17, Poehlman disclosed a high resistance electronic circuit (26).

Regarding claim 9, Poehlman disclosed all of the claim limitations as apply to claim 7, but did not disclose the bullet-type contact assemblies.

LeVantine disclosed (Fig. 6) a protective switch for communication systems having bullet-type contact assemblies (104, 106).

Since the inventions of Poehlman, and of LeVantine are from the same field of endeavor (protective devices for power distribution in communication systems), the purpose of the bullet type contact assemblies disclosed by LeVantine would be recognized in the invention of Poehlman.

It would have been obvious to a person of ordinary skill in communication and/or electrical protective device arts at the time the invention was made to modify said device of Poehlman by providing it with bullet-type contact assemblies as taught by LeVantine, in order to

Art Unit: 2835

enhance installation features of the device of Poehlman and to accommodate the device for particular power distribution panel and/or for particular application.

Regarding claims 6 and 16, Poehlman disclosed all of the claims limitations as apply to claims 1 and 13, respectively, but did not disclose a second primary fuse link received in the fuse housing and connected in parallel to the first primary fuse link.

It would have been obvious to a person of ordinary skill in the fuse art at the time the invention was made to provide a second primary fuse link in said fuse receptacle of Poehlman in order to increase current rating of the device, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

7. Claims 11 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: claims 11 and 15, each recites: "fuse alarm terminal" and "switch housing alarm terminal".

Response to Arguments

Art Unit: 2835

9. Regarding the rejections of the claims, Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Regarding the objections to the drawings, the Applicant's arguments are not persuasive, since the objections have been made in light of claims 6, 12, and 16, which are directed to the embodiment depicted on Fig. 1-6. In the arguments, the Applicant has cited Fig. 9, which depicts embodiment as claimed in claims 18-23 (i.e. doubled fused disconnect assembly).

Conclusion

10. Applicant's amendments to the claims and submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 04/21/03 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07 (a) and § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2835

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824.

The examiner can normally be reached on 9:30-6:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Anatoly Vortman
Primary Examiner
Art Unit 2835



A.V.
May 12, 2003